



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

June 11, 1991

Mr. Robert Moreno
Office of General Counsel
State Department of Highways
and Public Transportation
DeWitt C. Greer State Highway Bldg.
11th & Brazos
Austin, Texas 78701-2483

OR91-269

Dear Mr. Moreno:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12609.

The State Department of Highways and Public Transportation (the department) received an open records request for all documents pertaining to two specified requisition numbers. You state that the department released all information found to be responsive to the request except for one paragraph from an interagency memorandum, which you contend comes under the protection of section 3(a)(11) and the false-light privacy aspect of section 3(a)(1).

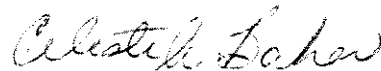
False-light invasion of privacy was discussed at length in Open Records Decision No. 579 (1990) (copy enclosed). As noted in that decision, the gravamen of a false light privacy complaint is not that the information revealed is confidential, but that it is false. Therefore, an exception to the Open Records Act such as section 3(a)(1) that focuses on the confidentiality of information does not embrace this particular tort doctrine.

Section 3(a)(11) of the act excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's deliberative process. Open Records Decision No. 538 (1990) (copy enclosed). Section 3(a)(11) does not, however, protect facts

and written observation of facts and events that are severable from such advice, opinion, and recommendation. Open Records Decision No. 450 (1986). The paragraph you have marked consists solely of the type of information section 3(a)(11) was intended to protect. You may therefore withhold this information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-269.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/RWP/lb

Ref.: ID# 12609
ID# 12632

Enclosures: Open Records Decision Nos. 579, 538

cc: Pike Powers
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